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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIO FLORES AUSENCIO,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-72698

Agency No. A095-122-115

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 18, 2009^{**}

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Mario Flores Ausencio, a native and citizen of El Salvador, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order summarily affirming an immigration judge's decision denying his application for asylum,

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

withholding of removal, and protection under the Convention Against Torture. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence factual findings, *Ochave v. INS*, 254 F.3d 859, 861-62 (9th Cir. 2001), and deny the petition for review.

In his brief to the BIA, Flores Ausenscio raised several gang-related arguments for the first time and he also raises those arguments in his opening brief. There is no evidence in the record to support these arguments.

On September 21, 2006, Flores Ausenscio's motion for stay of removal was denied; therefore, Flores Ausenscio's subsequent motion to dismiss respondent's opposition to the stay of removal, filed on October 3, 2006, is moot.

PETITION FOR REVIEW DENIED.